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SUBJECT: GUATEMALA HUMAN RIGHTS UPDATE #5-2004

1. (U) This message summarizes significant recent developments relating to human rights, including:

- Conviction in murder of Menchu Foundation accountant (para 2)
- Courts Give PDH Access to EMP Documents (3)
- Journalists Demand Justice for &Black Thursday8 Riots (4)
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- USG donates \$86,000 to Special Unit for Human Rights (10-11)
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Conviction in murder of Menchu Foundation accountant

2. On June 24, Ever Lopez Gomez and Billy Rene Barrios were sentenced to 9 and 29 years respectively for the April 2002 killing of Menchu Foundation accountant Guillermo Ovalle. Although Menchu Foundation officials believed the accountant had been murdered to intimidate the organization, the Special Prosecutor for Human Rights believes that Lopez and Barrios killed the accountant during a shoot-out in a failed robbery of a restaurant.

Courts Give PDH Access to EMP Documents

3. The Human Rights Ombudsman,s office (PDH) told Poloff in July that the PDH, with support from Mutual Support Group (GAM) and Security and Democracy (SEDEM), is currently copying thousands of documents recovered from the now-defunct Presidential Military Staff (EMP). On January 6, a judge ordered the military to allow the PDH access to the information. The PDH and other groups plan to analyze the documents to assist in locating children disappeared in the civil conflict and learn more about the military,s operations during that period. The documents include information on operations, maps, paychecks, car and gas records, accounting, and human resources.

Journalists Demand Justice for &Black Thursday8 Riots

4. Approximately 50 reporters marched through the capital on July 24, the one-year anniversary of the 2003 &Black Thursday8 riots organized in favor of the presidential candidacy of retired General Efraim Rios Montt, to demand justice for the death of Hector Ramirez, who died of a heart attack while running from a crowd of rioters. The Special Prosecutor for Human Rights office has indicted 20 individuals, including Rios Montt,s grandson and niece, for involvement in planning the chaos. Rios Montt, Secretary General of the FRG, remains under house arrest for his suspected role in the riots (though, in practice, he is not restricted to his home, but to the capital). In addition, the Supreme Court is investigating six former government officials, four congressional representatives and two mayors, and will decide whether to remove their immunity from criminal prosecution. Special Prosecutor Gudiel told PolOff that many witnesses have refused to testify out of fear of reprisal. (Comment: The legal basis for this prosecution is shaky at best. Unable to identify the rioters who actually chased Ramirez, the Prosecutor is going after FRG leaders who organized the demonstration as the "intellectual authors" of Ramirez's "aggravated" heart attack.)

Threats Against CALDH and Plan de Sanchez Witnesses

5. The Legal Center for Human Rights (CALDH) and the Plan de Sanchez community in Baja Verapaz (site of a 1982 massacre in

which the army and ex-Pacs allegedly killed 268 people) were the targets of over 20 acts of intimidation between March and September. CALDH provided legal support to community members of the Plan de Sanchez community for a April 23 and 24 Inter-American Court (IACHR) hearing on the massacre. In April, during an IACHR hearing, the Government admitted responsibility for not investigating the massacre. The threats against witnesses to the massacre and CALDH increased in incidence following the hearing.

16. On March 11, a CALDH driver was kidnapped in front of the CALDH office, held for several hours, questioned about his work, and released after the theft of his vehicle. On September 7, the police captured a suspect in the kidnapping, who is currently awaiting a line-up and trial. After the driver's experience, CALDH requested police protection, which was approved and coordinated by COPREDEH (President's Commission on Human Rights). In July, however, a string of intimidating actions against the organization and community began.

17. On July 14 and 15, there were two break-ins at the home of CALDH director Edda Gaviola, although nothing significant was stolen. On July 17, unknown intruders broke into the annex office of CALDH in Guatemala City. On the same day, a witness in the IACHR case received an inoperative bomb with a note threatening his life. On July 30, another threat against the Plan de Sanchez witnesses was delivered to CALDH's office in Rabinal. The vehicle of a CALDH employee was hijacked on September 13. Throughout July to September, CALDH employees were followed in vehicles, threatened by phone and in person. The investigation into the series of threats is ongoing.

18. On August 12, the Ambassador visited the CALDH offices to hear first hand about the threats and express USG concern. Three Amcits working with NISGUA, an accompaniment organization working with the Plan de Sanchez community, attended the meeting. On August 11, CALDH met with Government Minister Carlos Vielmann and with Attorney General Juan Luis Florido. Vielmann committed to improving the diligence of the PNC security forces, who were frequently absent from in front of the organization's office during July. PolOff has discussed the threats with the Special Prosecutor for Crimes against Human Rights Defenders Betty Gudiel on multiple occasions. Gudiel reported progress in the March kidnapping case but stated that in the other case lack of evidence had limited investigations and prosecutions. In response to the threats against CALDH and other organizations, the Ambassador also hosted a reception on September 29 in honor of and to convey support for the local human rights community. In October, CALDH relocated its primary offices to a new location (the move was planned before the threats began). Since that time, CALDH staffers have not received further threats.

PDH Leads & Movement Against Violence8

19. Human Rights Ombudsman Sergio Morales, in coordination with the Catholic and Protestant churches and over 400 other organizations, formed the &Movement Against Violence,8 on June 14 to raise awareness about the growing violence in Guatemala. On August 13, over 5,000 individuals participated in a national march led by the Movement. The GOG gave government employees several hours off work if they choose to participate. The Movement also created working groups to analyze different types of violence and make recommendations to the GOG.

USG donates \$86,000 to Special Unit for Human Rights

10. On August 30, the Ambassador and Attorney General Juan Luis Florido signed an agreement to donate \$86,000 of DRL funds to the office of the Special Prosecutor to Combat Crimes against Human Rights Defenders. The Ambassador stressed the Embassy's support for the Special Unit and the effective investigation of crimes against human rights defenders. Betty Gudiel, the current Special Prosecutor, was hand-chosen by Florido to replace Thelma de Lam (who had personal disputes with Florido and was closely allied with former AG Carlos de Leon). The Special Unit has taken several cases to court in the last several months, including the April 2002 murder of Menchu Foundation accountant Guillermo Ovalle (see para 2), the April 2003 murder of Mayan priest Diego Xon Salazar (one individual was convicted and sentenced to 15-years in prison), and the September 2003 murder of community organizer and member of the Council of Ethnic Communities (CERJ) Eusebio Macario (the court found the suspect not-guilty).

11. The grant aims to better equip the Special Human Rights Unit to arrive quickly at crime scenes, interview witnesses, track and evaluate case progress, and more effectively record evidence and prosecute cases. These funds will purchase two

vehicles, third-party liability insurance policies, 16 personal computers, one laser printer, 10 UPS stations and computer cabling.

Threats against ANN Deputy Nineth Montenegro

112. Mario Polanco, director of Mutual Support Group (GAM), reported to PolOff that, from August to September, ANN Congressional deputy Nineth Montenegro, President of the Human Rights Committee and former director of GAM (and Polanco,s spouse), received 20 threatening phone calls. Unknown individuals broke the windows of her vehicle in front of her home and rifled papers inside but stole nothing. The Congresswoman,s car was followed, and unidentified men loitered in front of her home. In the past two months, the threats have subsided.

Supreme Court Recuses Judge in Gerardi Case

113. Prosecutors in the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop,s Office on Human Rights (ODHAG) are currently investigating 10-12 more suspects thought to be involved in the killing. On August 25, the Supreme Court ruled that the head of the Fourth Penal Court, Willevaldo Contreras, should be recused from hearing further cases against individuals implicated in Gerardi,s murder (he heard the previous trial), because he has previously made public statements demonstrating partiality. The Fourth Penal Court appealed the ruling and that decision is pending.

New Trial for Rio Negro Massacre Suspended

114. On October 19, a new trial began against six ex-PACS (three others were convicted in 1998) for the 1982 Rio Negro massacre. However, after just one day of testimony, defense lawyers presented a motion to suspend to correct the spelling of the witnesses, names in trial paperwork. The trial was not expected to resume for several months. Witnesses and lawyers on the case have received numerous threats in the months leading up to the new trial.

Freedom of the Press Has Improved

115. According to the Committee on Freedom of the Press and the OAS Special Rapporteur for Freedom of the Press, conditions for journalists in Guatemala have improved in the last year. The representatives presented the reports at the October 25 General Assembly meeting of the Inter-American Press Society (SIP). Gonzalo Marroquin, President of the Guatemala SIP Committee, stated, &it seems that an institutional policy of confrontation and pressure against the press doesn,t exist in Guatemala.8 Eduardo Bertoni, Special OAS Rapporteur, recognized that in Guatemala the GOG &investigates some cases, which doesn,t happen in other parts of the region.8 However, Bertoni also observed that the cases which are investigated &are not done so rapidly and with the desired results (of prosecutions).8

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